

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 799 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GSRTC

Versus

DAHAYABHAI SABURBHAI PANCHAL  
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Appearance:

MRS VASAVDATTA BHATT for Petitioner  
MR MF AHMED KHARADI for Respondent No. 1  
NOTICE SERVED BY DS for Respondent No. 2  
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CORAM : MR.JUSTICE Y.B.BHATT and  
MR.JUSTICE A.K.TRIVEDI

Date of decision: 24/12/1999

ORAL JUDGEMENT

Appeal admitted. Mr. Kharadi appears and waives service on behalf of respondent no.1. Respondent no.2 needs not be served since he is a driver and employee of the appellant Corporation.

2. At the joint request from learned counsel for the respective parties, this appeal is taken up for hearing today.

3. As a result of hearing and discussion, a consensus have been arrived at between the learned counsel for both the parties on the basis of which the point in controversy is clarified and it is found that the respondent no.1 -original claimant would not be entitled to the compensation under the Motor Vehicles Act as also the compensation under the Workmen's Compensation Act. This is a clear position of law on which there cannot be any controversy.

4. The learned counsel for the appellant in the present appeal challenges the award passed under the Motor Vehicles Act only on the ground that the amount already paid to the respondent no.1 -original claimant under the Workmens' Compensation Act should be deducted from or adjusted against the award passed under the Motor Vehicles Act.

5. On the basis of aforesaid consensus, it is hereby directed that the amount which might have been paid to the original claimant by the present appellant under the Workmens's Compensation Act shall be set off and adjusted against the amount awarded by the Motor Accident Claims Tribunal under the impugned award.

6. The parties are accordingly directed to adjust their liabilities accordingly. It is clarified that the impugned award passed under the Motor Vehicles Act is not specifically modified since the same is not specifically challenged on its own merits.

7. Subject to the aforesaid observation and direction, this appeal is partly allowed, and the same is accordingly disposed of with no order as to costs.

Date: 24/12/1999. ----  
(ccshah)